

PATENT COOPERATION TREATY

**PCT**

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>PWO-S002-001</b>	FOR FURTHER ACTION		See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. <b>PCT/IB04/00911</b>	International filing date (day/month/year) <b>26 March 2004 (26.03.2004)</b>	Priority date (day/month/year) <b>26 March 2003 (26.03.2003)</b>	
International Patent Classification (IPC) or national classification and IPC <b>IPC(7): A61B 17/80 and US Cl.: 606/69</b>			
Applicant <b>SWISS ORTHOPEDIC SOLUTIONS SA</b>			

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 3 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of    sheets.

3. This report contains indications relating to the following items:

- I  Basis of the report
- II  Priority
- III  Non-establishment of report with regard to novelty, inventive step and industrial applicability
- IV  Lack of unity of invention
- V  Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI  Certain documents cited
- VII  Certain defects in the international application
- VIII  Certain observations on the international application

Date of submission of the demand <b>21 October 2004 (21.10.2004)</b>	Date of completion of this report <b>21 March 2005 (21.03.2005)</b>
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/ US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer  David O. Reip Telephone No. 571-272-3700

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/IB04/00911

**I. Basis of the report**

## 1. With regard to the elements of the international application:\*

the international application as originally filed.  
 the description:

pages 1-8 as originally filed  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_

the claims:

pages 9-14, as originally filed  
 pages NONE, as amended (together with any statement) under Article 19  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_

the drawings:

pages 1-13, as originally filed  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_

the sequence listing part of the description:

pages NONE, as originally filed.  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language English which is:

the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).  
 the language of publication of the international application (under Rule 48.3(b)).  
 the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

contained in the international application in printed form.  
 filed together with the international application in computer readable form.  
 furnished subsequently to this Authority in written form.  
 furnished subsequently to this Authority in computer readable form.  
 The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
 The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4.  The amendments have resulted in the cancellation of:

the description, pages NONE  
 the claims, Nos. NONE  
 the drawings, sheets/fig NONE

5.  This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/IB04/00911**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

Novelty (N)	Claims <u>1-33 and 36-42</u>	YES
	Claims <u>34-35</u>	NO
Inventive Step (IS)	Claims <u>1-33 and 36-42</u>	YES
	Claims <u>34-35</u>	NO
Industrial Applicability (IA)	Claims <u>1-42</u>	YES
	Claims <u>NONE</u>	NO

**2. CITATIONS AND EXPLANATIONS**

Claims 34-35 lack novelty under PCT Article 33(2) as being anticipated by Frigg, WO 01/54601 A1. Figures 2-4 of Frigg show a bone plate having all the limitations as recited in claims 34-35, including: a bone-contacting bottom side 2; a top side 1; a plurality of sets of overlapping holes 14/24 having threads 5 adapted to receive a bone screw 11 with a threaded head 12 and a bone engaging threaded shank.

Claims 1-33 and 36-42 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest a bone plate having all the limitations as recited in claims 1-33 and 36-42. For example, with respect to claim 1, the prior art does not teach a threaded aperture having multifaceted surfaces.

Claims 1-42 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.